

THE GIBSON LAW FIRM, PLLC

SUJATA S. GIBSON, ESQ.
407 N. Cayuga Street, Suite 201
Ithaca, New York 14850

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Writer Direct Line: (607) 327-4125

VIA ECF

The Honorable Judge Brenda K. Sannes
United States District Court Judge
Northern District of New York
PO Box 7336
Syracuse, NY 13261-7366

Re: Jane Doe et al. vs. Howard Zucker, et al., Case No.: 1:20-CV-0840 (BKS/CFH)

Dear Judge Sannes:

Pursuant to orders arising from our telephonic appearance on October 15, 2020, I submit this letter motion seeking to file a First Amended Complaint.

As a matter of course, Plaintiffs may still file a First Amended Complaint applicable to Defendant Br. Migliorino, who filed his responsive pleading a few days ago. More than twenty-one days has elapsed, however, since motions to dismiss were submitted by the other defendants. For this reason, I submit this letter motion along with our proposed First Amended Complaint containing track changes which show each proposed amendment. For ease of review, I also attach an unsigned copy adopting all the proposed amendments.

Plaintiffs request the Court consider tolling the time to file the attached First Amended Complaint as it applies to Defendant Br. Migliorino as it would be less efficient to file a signed copy and then refile if the changes weren't applicable to everyone.

The primary changes proposed are as follows:

- 1) The individually named school districts defendants originally sued in their "official capacity" have been re-pleaded as sued in their individual capacities.

- 2) The complaint has been amended to more clearly state that the individually named plaintiffs seek damages as well as equitable relief from individually named school district defendants.
- 3) The individually named defendants from the Shenendehowa School District implicated in the Koe family decision are removed and claims against them withdrawn. The Koe family is only seeking injunctive and declaratory relief from their school district and the state level defendants.
- 4) The recitation of claims have been amended so they are more clearly pled, particularly the substantive due process claim.
- 5) Some paragraphs have been amended or amplified to more clearly describe the facts as they relate to the claims and individually named defendants, and to provide statements about matters defendants complained of not seeing. For example, though some of the defendants acknowledge the plaintiffs each appear to be disabled under the facts, some defendants were unclear about whether any substantial activities or functions were impaired so this type of language was added for each defendant.
- 6) Some new information was added, such as the new rule that all children denied a medical exemption will be barred from even attending online school or programming.

My understanding is that the next steps in this process are that the Defendants will outline anticipated arguments with any of the proposed amendments, we will have an opportunity to respond and then we will have a conference to determine if we can come to a solution before filing a formal motion. Please let me know if I can provide anything else in the interim or if my understanding of the process is incorrect.

Respectfully Submitted,

s/Sujata S. Gibson

Sujata Gibson
The Gibson Law Firm, PLLC
Attorneys for the Plaintiff
Bar Roll No. 517834
sujata@gibsonfirm.law